IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10047 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KIRIT M BRAHMBHATT

Versus

COMMISSIONER OF POLICE

Appearance:

MR PARESH UPADHYAY for Petitioner

MR SP HASURKAR for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 04/04/2000

ORAL JUDGEMENT

#. Mr.Paresh Upadhyay, for the petitioner. Mr.Digant Joshi, Ld.A.G.P. for Mr.S.P.Hasurkar, Ld.Additional G.P. for the respondent.

#. In this matter the court issued rule on 16.12.1999 alongwith the notice as to interim relief making it returnable on 29.12.1999. Today when the matter reached hearing, it is pointed out by Mr.Paresh Upadhyay that the criminal prosecution which is initiated on the same facts on which a departmental inquiry is sought to be proceeded further is substantially over. While it is stated by Mr.Joshi, that on inquiry it is found that substantial recording of evidence is over in the aforesaid criminal prosecution. However, Mr.Joshi, suggested that if it finds favour then the witnesses who are already examined in the criminal prosecution may be allowed to be examined in the departmental proceedings so as to see that the time can be saved in conducting that departmental inquiry. Mr.Paresh Upadhyay, submits that it will cause the same, prejudice which would have been caused by going on that departmental inquiry during the pendency of criminal trial.

#. Looking to the settled legal position about, proceedings with the departmental inquiry during the pendency of criminal trial, the interference of this court would not have been warranted. But for the fact that the criminal prosecution under the criminal trial in the present case is at the stage where the substantial recording of evidence is already over and therefore it is expected that the said criminal trial is not likely to take long. That the departmental inquiry pursuant to the charge sheet dated 18.9.1999 Annexure-C page 14 to this petition may not be proceeded till the trial is over. However, this order is passed on an asurance from the petitioner that the petitioner will fully cooperate with the departmental inquiry as and when the same starts and at that time the petitioner will not be seeking any adjournment on any ground which can be said to be unreasonable. However, the liberty is reserved to the authority in case of the criminal trial is not over by 30.6.2000. This Spl.C.A. is allowed. Rule is made absolute with no order as to costs.

kks